

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE

GTECH CORPORATION,

Plaintiff,

v.

C.A. No. 04-138-JJF

SCIENTIFIC GAMES INTERNATIONAL,  
INC., SCIENTIFIC GAMES HOLDINGS  
CORPORATION, SCIENTIFIC GAMES  
FINANCE CORPORATION, and  
SCIENTIFIC GAMES CORPORATION,

**REDACTED VERSION**

Defendants.

**SCIENTIFIC GAMES' RESPONSE TO GTECH'S MOTION IN LIMINE NO. 8  
TO PRECLUDE SCIENTIFIC GAMES FROM OFFERING  
COLOR PHOTOGRAPHS OF THE IOWA PAT**

Scientific Games International, Inc., Scientific Games Holdings Corporation, Scientific Games Finance Corporation, and Scientific Games Corporation (collectively, "Scientific Games") oppose GTECH's motion in limine to preclude Scientific Games from offering color photographs of the Iowa PAT.

GTECH's assertion that Scientific Games

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is simply wrong.

Scientific Games produced a color copy of the photograph of the Iowa PAT, Bates labeled as SGI104830, on April 25, 2005 (Ex. A). On April 29, 2005, in response to GTECH's Interrogatory No. 7 concerning Scientific Games' invalidity contentions, Scientific Games specifically identified the color photograph of the Iowa PAT as one of the documents on which it intended to rely (Ex. B at 11, 15; emphasis added):

Scientific Games' PATs were lottery ticket vending machines that included a housing with an outlet opening accessible to the ticket purchaser, a touch-screen for ordering multiple tickets

in a single batch, and dispensing means for dispensing the instant lottery tickets through the outlet opening (*see* SGI002060-163; **SGI104830**-31; SGI104811-12; SGI105153; SGI106615).

In response to topic 58 of GTECH's 30(b)(6) deposition notice, Scientific Games designated William Behm to testify as its corporate representative concerning "[t]he conception, design, development, manufacture, operation, sale, offer for sale, and use of the 'Player Activated Terminal' identified in Scientific Games' Response to GTECH's Interrogatory No. 7 . . . ." (Ex. C at 12). At his deposition, on May 27, 2005, Mr. Behm testified

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Mr. Behm told GTECH about the existence of the photograph and what was depicted in the photograph -- but GTECH never followed up to ask Mr. Behm what photograph he was referring

to or where it could be found. GTECH also never asked Scientific Games to identify where the photograph could be found in Scientific Games' document production.

GTECH's lengthy quotation from Professor Myers' deposition is also misleading. GTECH deposed Professor Myers on October 12, 2005 (*see* D.I. 188, Ex. 40). Two weeks earlier, on September 30, 2005, Scientific Games deposed GTECH's expert, Joseph Perin. At Mr. Perin's deposition, Scientific Games marked a color copy of the photograph of the Iowa PAT as Defendant's Exhibit 123 (Ex. E). Thus, even if Scientific Games had failed to produce a color copy of the photograph during discovery (which it had not), there was no reason for GTECH to question Professor Myers using a black-and-white copy of the document, since GTECH had received a color copy of the document at Mr. Perin's deposition two weeks earlier, and Professor Myers testified he had reviewed a color copy of the document (and not a black-and-white copy) in his work on the case (*see* D.I. 188, Ex. 40 at 114-15).

Finally, on November 3, 2005, GTECH requested the inspection of "all originals" of the photograph "in either Scientific Games' or Morris Nichols' possession, custody and control . . ." (Ex. F). Scientific Games located the original photograph in its files in Georgia, and made it available for inspection in Delaware (Ex. G). Scientific Games also provided GTECH with an electronic version of the photograph, and provided GTECH with photographic reproductions of the original (Ex. H).

GTECH's motion in limine to preclude Scientific Games from offering color photographs of the Iowa PAT should be denied.

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